

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

September 26, 2002

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 26, 2002, at 1:00 P.M., in the City Council Chambers, 1st floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Chair; Kerry Coulter, Vice-Chair; Ron Marnell; Don Anderson; Bill Johnson; Frank Garofalo; Ray Warren; James Barfield; David Wells; Elizabeth Bishop and Dorman Blake. John McKay, Jr.; Jerry Michaelis; Harold Warner and were not present. Staff members present were: Mike Lindebak, Secretary; Dale Miller, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Donna Goltry, Principal Planner; Jess McNeely Associate Planner; Jamsheed Mehta, Chief Planner, Transportation Planning and Rose Simmering, Recording Secretary.

1. Amending the MPO's 2002 Unified Planning Work Program (UPWP) to obligate federal funds for the South Area Transportation Study, presented by Jamsheed Mehta.

JAMSHEED MEHTA Planning Staff presents staff report. Staff recommends approval.

MOTION: To approve, subject to staff comments and citing the findings in their report.

GAROFALO moved, **BLAKE** seconded the motion, and it carried (9-0).

2. Amending the MPO's 2002 Transportation Improvement Program (TIP) to reflect minor changes to certain federally funded projects, presented by Jamsheed Mehta.

JAMSHEED MEHTA Planning Staff present staff report. Staff recommends approval.

GAROFALO Curious as to what was switched out from an earlier project?

MEHTA The far left column on this spreadsheet shows what changed. There are no new projects, we are only switching a few project let dates to reflect the City's construction program, and to be able to reduce and use up the excess federal funds before the end of the transportation bill in 2003. The Noise study is also not a new project but only identifying the use of federal funds instead of local funds.

BISHOP I have a question about the noise study. Why was that area selected for a noise study?

MEHTA KDOT does have a noise study requirement. It is part of the design review of all federally funded arterial projects.

BARFIELD Are these changes to the projects?

MEHTA These TIP changes are only a schedule change, not affecting the scope of the project. We have carryover balances and revised cost estimates that free up or provide more funding capacity. By shifting or accelerating certain projects, we can optimize the use of these funds and obligate funds before September 2003, when TEA -21 expires.

BARFIELD Central was moved back from 03 to 04.

LINDEBAK Central is still scheduled for end of year 2003 or early 2004 according to the CIP program. Since the federal year 2004 begins in October 2003, we are programming the federal project based on the federal year.

BLAKE What about the 47th & 55th and Hydraulic area? Is this still in the plan?

LINDEBAK It does not have federal funds going to it. There are two projects that were started this year. Paving will be done this late this year and earlier next year. Later 2003 will be a drainage program.

BLAKE So it will be closer to reality?

LINDEBAK Yes.

MARNELL So why are we moving a project from 2002 to 2003?

MEHTA Again, the federal year changes in October each year, so we need to show it as a project in federal year 2003 even though it will be let for construction in Fall 2002. Some projects may have shifted a few months.

MOTION: To approve, subject to staff comments and citing the findings in their report.

GAROFALO moved, **ANDERSON** seconded the motion, and it carried (9-0).

3. Amend the Functional Classification Map to include West 29th Street between Ridge and Maize Road as a Major Collector/Minor Arterial facility in order to qualify for federal funding, presented by Jamsheed Mehta.

JAMSHEED MEHTA Planning Staff presented staff report.

MOTION: To approve, subject to staff comments and citing the findings in their report.

ANDERSON moved, **COULTER** seconded the motion, and it carried (9-0).

4. DR00-11 Delano Neighborhood Plan Request General Location West Boundary – Meridian Street from Central Avenue south to Kellogg North Boundary – Central Avenue east from Meridian to the Arkansas River and following the Arkansas River to Kellogg East Boundary – The Arkansas River South Boundary – Kellogg from the Arkansas River west to Meridian

BACKGROUND: After several years of hard work on the part of the Delano Neighborhood Association, the Delano Business Association and the Delano Clergy Association, the Delano Neighborhood Revitalization Plan was completed and adopted by the Wichita City Council and the Sedgwick County Board of County Commissioners in April 2001. The Plan reflects a rather special and unique vision for the future of this neighborhood, based upon its past historical character and its strategic location with respect to the museum district, Exploration Place, the abandoned UP rail corridor, downtown Wichita, the new east bank development project and the Arkansas River corridor redevelopment plan.

However, the Delano community realized that the full redevelopment potential and opportunities identified in the Delano Plan could not be realized under current zoning designations and requirements. Accordingly, the Delano community has worked over the last year and a half on the development of a three-fold initiative involving a rezoning proposal for the entire neighborhood, combined with a proposed zoning overlay district and set of neighborhood design guidelines unique to Delano.

The purpose of the proposed rezoning initiative is to create neighborhood zoning that creates a sense of security in the neighborhood and better reflects and accommodates existing uses. Many areas of the neighborhood are grossly overzoned. The intent of the proposed overlay district is to encourage and maximize future development opportunities and uses anticipated in the Delano Plan, while discouraging those types of new uses that do not constitute preferred elements of the long-term redevelopment vision for this neighborhood. The design guidelines are intended to ensure that new development reflects an architectural character and style that is compatible or consistent with existing architecture in the neighborhood. In fact, the Delano Neighborhood Revitalization Plan adopted in 2001 contains an interim set of design guidelines that were intended to be used as a basis for the development of a more comprehensive set of design guidelines for Delano.

The Delano community had taken an approach in this initiative that reflects the following principles:

1. No changes are proposed that will prevent residents, businesses or landlords from continuing their existing operations or uses.
2. Most properties are proposed for rezoning, but any owner of property proposed for rezoning who files a written request to the MAPD on or before September 26, 2002 will have their property left as currently zoned.
3. Existing uses not allowed under either the proposed rezoning or overlay district would be grandfathered, with expansions of buildings allowed up to 30%.
4. No property will be upzoned, in order to protect existing property owners from the possibility of more intensive adjacent uses without complete and clear rezoning notifications.

Summary of Proposed Delano Neighborhood Rezoning:

1. Rezone existing residentially developed property that is currently located within "TF3" Two-Family, "MF29" Multi-Family and "B" Multi-Family zones to residential zones that are more reflective of the current densities of development. Many single family home owners located within these high density residential zones are reluctant to reinvest in their homes and properties when current zoning allows for the possibility of a major developer buying up several homes next to them for the purposes of constructing high rise apartment buildings.
2. Rezone existing residentially developed property that is currently located within the "LI" Limited Industrial zone to residential zones or commercial zones that reflect current densities of development, or future opportunities for redevelopment. Many homes fall within the "LI" Limited Industrial zone which prohibits residential use and development. Accordingly, should these homes be damaged by more than 50%, or destroyed, they cannot be rebuilt. As a result, these existing homes are difficult to finance and re-sell.
3. Rezone existing commercial and manufacturing development located within the "LI" Limited Industrial zone to a "GC" General Commercial zone that will accommodate existing uses, yet avoid the possibility of new "less desirable" uses associated with the "LI" Limited Industrial zone.
4. Leave existing zoning in place, on a temporary basis, for that portion of the Urban Village Redevelopment area located east of Handley Street, west of McLean Boulevard, south of 2nd Street and north of Douglas Street (excepting those properties adjoining Douglas Street). This area would also be exempted from the Overlay District and Design Guidelines. The reason for this exemption is that sensitive negotiations are currently underway pertaining to property in this location, that could be jeopardized by any change in the status quo. Once this matter has been settled, the Delano community plans to revisit the rezoning, overlay district and design guideline application in this area.

Summary of Proposed Delano Neighborhood Overlay District:

1. The Overlay District and the associated Design Guidelines are applicable to all properties regardless of the current or proposed rezoning (excepting that portion of the Urban Village Redevelopment area previously described), but would only impact new uses and the expansion of existing uses. No existing legal conforming uses would be rendered nonconforming by virtue of the adoption of the Overlay District.

2. The Overlay is intended to allow for the application of the Design Guidelines, and to specifically prohibit certain types of new uses that do not reflect the redevelopment vision and goals set forth in the Delano Plan. Many of these uses already exist in the neighborhood, but the Delano community does not want to encourage more of them in the future. These uses are: asphalt and concrete plant; auto body/paint shop; billboard; bulk fuel storage; outdoor car lot; correctional home or rehabilitation center; jail/prison; manufactured home park/subdivision; mining, oil/gas drilling or rock crushing; outdoor vehicle storage yard; sex-oriented business; tattooing/body piercing; waste incineration.
3. The Overlay District also allows for the requirement of a conditional use permit for certain desirable uses listed below, in order to ensure that these uses are properly sited and located in a manner consistent with the objectives of the Delano Plan: auto repair; car wash; cell tower; commercial parking lot; convenience store; drive-thru restaurant; electrical or water treatment plant; freight terminal; gas station; indoor car, boat, motorcycle sales; manufacturing uses; mini storage; television or microwave tower; wholesale business.

Summary of Proposed Delano Neighborhood Design Guidelines:

1. The design guidelines are intended to ensure that new development reflects an architectural character and style that is compatible or consistent with existing architecture in the neighborhood. The guidelines would apply to all new building construction, alteration or demolition that requires a building permit, as well as signs, parking areas and fences adjacent to a public street.
2. Exempt from the Design Guidelines would be any alterations, repairs, improvements or construction that does not require a building permit, plus roof re-shingling and building re-siding (as long as it does not change the appearance of the building).
3. Any buildings or structures in lawful existence prior to the effective date of the Overlay District that are subsequently damaged or destroyed may be reconstructed in their prior architectural style and character.
4. The following fencing guidelines are proposed in the residential areas: Fence height limit in front yards adjoining a public street is 5 ft. for wrought iron fence, and 4 ft. for picket or chain link fencing or stone/brick walls. Fence height limit in side yards adjoining a public street is 6 ft. and privacy or chain link fencing is also allowed.
5. The Design Review Committee would consist of the Director of Planning, the Historic Preservation Officer, the Superintendent of Central Inspection and a duly appointed representative each from the Delano Neighborhood Association, the Delano Business Association, the Delano Clergy Association and the Delano Development Corporation.
6. Flexibility is available to the Design Review Committee to allow for alternative design standards that are necessary to accommodate extraordinary circumstances or situations, or economic hardship or other circumstances.

NOTE The proposed Rezoning, Overlay District and Design Guidelines for the Delano Neighborhood originally presented to the Metropolitan Area Planning Commission on August 8, 2002 for comment and authorization of a public hearing, have been subsequently reviewed and revised by the Delano steering committee based upon feedback/comments received from public meetings held on August 20th, September 4th and September 12th. The proposed Rezoning, Overlay District and Design Guidelines for the Delano Neighborhood attached to this Staff Report and submitted herein for consideration by the MAPC, reflects revisions and improvements made by the Delano steering committee subsequent to August 8, 2002. The attached map dated 9/19/02 showing the proposed Rezoning for Delano will also be subject to further revisions up to and including September 26, 2002, in order to accommodate those property owners who file a written request to MAPD to have their property left as currently zoned.

CASE HISTORY: N/A

ADJACENT ZONING AND LAND USE:

NORTH:	"TF3"	Arkansas River and predominately residential uses.
SOUTH:	"MF29"	Kellogg freeway and predominately residential uses.
EAST:	"CBD"	Arkansas River and office/commercial (downtown).
WEST:	"TF3, LC"	Meridian Street and predominately residential uses.

PUBLIC SERVICES: N/A

CONFORMANCE TO PLANS/POLICIES:

Wichita-Sedgwick County Comprehensive Plan: The proposed rezoning for the Delano neighborhood is consistent with the general land use patterns prescribed for this area on the "Wichita Land Use Guide" map. Strategy XI.C4 of the Comprehensive Plan advocates the use of rezoning as tool in older neighborhoods to "prevent the encroachment of inappropriate development of a more intensive nature". The Comprehensive Plan has also identified on the "Wichita Residential Area Enhancement Strategy Map", the west half of the Delano neighborhood as a "Revitalization" area and the easterly portion as a "Re-establishment" area. The proposed Delano Overlay District and Design Guidelines represent a specialized approach intended to help stabilize this area and encourage future growth and development in a manner consistent with the future vision and goals established for this neighborhood.

Delano Neighborhood Revitalization Plan: The Rezoning, Overlay District and Design Guidelines proposed for the Delano neighborhood are consistent with the recommendations contained in the Delano Plan, and constitute appropriate plan implementation actions. Much of the initial content for the Design Guidelines came from the Interim Design Guidelines section of the Delano Plan.

RECOMMENDATION: The Rezoning, Overlay District and Design Guidelines proposed for the Delano neighborhood are tools to help implement the vision and direction contained in the Delano Neighborhood Revitalization Plan. Accordingly, planning staff recommends that the request be APPROVED as submitted, subject to those revisions to the Delano Revised Rezoning Map dated 9/19/02, necessary to accommodate all written requests from property owners requesting to have their zoning left as is, and received by the MAPD by the end of business on September 26, 2002.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The Rezoning proposal is consistent and reflective of the present

character and uses within the neighborhood. The opt-out provision allows property owners to remain as currently zoned, if they so choose.

2. The suitability of the subject property for the uses to which it has been restricted. The Rezoning, Overlay District and Design Guidelines proposal is intended to effectively implement the recommendations and direction contained in the Delano Neighborhood Revitalization Plan. This proposal provides tools to help encourage the realization of the full development potential and opportunity envisioned for this unique neighborhood in Wichita.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Rezoning, Overlay District and Design Guidelines proposal will have no adverse impacts on nearby properties. In fact, it could be argued that it will have a beneficial, long-term social and financial impact on adjoining neighborhoods and the downtown area of the City of Wichita.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The requested change is consistent with policy direction contained in both the Wichita-Sedgwick County Comprehensive Plan and the Delano Neighborhood Revitalization Plan.
5. Impact of the proposed development on community facilities: No new development is proposed in association with, or as a result of, the adoption of the Rezoning, Overlay District and Design Guidelines proposal.

DAVE BARBER, Planning staff, presented staff report.

WELLS arrived at 1:26 p.m.

JOHNSON arrived at 1:41 p.m.

WARREN You are implying that Delano Neighborhood plan we approved, and was approved by WCC and BOCC, was approved with design guidelines?

BARBER Yes, they are contained on page 52, Guidelines Administration section.

BARFIELD Concerned that Spangles decided not to build just because of their signage problems.

BARBER Proposed design guidelines are based on the criteria in the Plan, which has restrictions on the height and size of new signs.

BARFIELD What about the current Sign Code?

BARBER The Delano moratorium supercedes the current sign code. All new signage along Seneca has to comply with the Delano Plan. The Design Committee did compromise with Spangles on many aspects of their proposal, but not on the size of the sign.

BARFIELD I have some concerns about giving so much authority to this proposed design guidelines review committee.

GAROFALO I am trying to get a feel for how much opposition there is...about 69 property owners have signed a written request to leave the zoning the way it is. Are these mostly businesses?

BARBER 69 out of 2,500. Mostly businesses, but also from some resident homeowners and investment property owners.

GAROFALO One letter here says that the business operation which was grandfathered years ago would remain, but he is concerned about doing remodeling. The remodeling would come under the design guidelines?

BARBER Only exterior modification and expansions would have to go through the design committee.

MARNELL Was the notification sent to residential owners as well as the business people?

BARBER Yes.

WARREN Do we want to hear from the Board now or do we want to hear from the public next.

BARFIELD When will we hear from the legal department?

HENTZEN We should hear from the public next.

MORRIS DUNLAP, Wichita Business Association 415 S. Main. I am concerned that the revitalization will not happen because the businesses will be forced away from this area, rather than drawn to it, because of the restrictions imposed by the Overlay and Design Guidelines. There is nothing in the Plan today that cannot be done with the existing code. The Plan is already under revision. Who is in charge of the Plan, the MAPC or the proposed design review committee.

BLAKE How many businesses are in the Delano area?

DUNLAP I don't know.

GAROFALO If the design committee would be just an advisory committee, would that satisfy you if they could just advise the MAPC.

DUNLAP That would probably help some. If the business has to go to a review committee and then go to MAPC later. I don't think that is the right way to do it?

MARY LOU RIVERS, 728 W. Douglas, business owner at the corner of Osage and Douglas. We moved there in 1991. We want to bring tourists and businesses into this area. There are some businesses that choose not to keep their businesses up. How many buildings with beauty and character do we have to lose? We are not afraid to work together on a plan to make this area better.

GAROFALO How many members are in the Business Association.

RIVERS In the area of around 300 businesses, with anywhere from 50 up to over 100 as members. About 80 right now.

ANDERSON I would like an indication if they are opposed or in favor of the plan.

RIVERS I am in favor of the proposal.

RAY RANCURET I have lived in the neighborhood for 23 years. There was general deterioration of the neighborhood. Mr. Dunlap who spoke first said the plan will drive away business. We are inviting business but we want them to come to the neighborhood with guidelines. This is the 6th revision of the plan before it came to you in this form. Mr. Dunlap said that we can use the current UZC, but we want to improve on the neighborhood more to our own vision. I take offense that volunteers cannot contribute to the plan. I think we can work together as a neighborhood. We do not take away all of the MAPC rights. Every month this topic has been written in the Delano newspaper, the public has been invited to come and speak and work together on the future of Delano. There is strong neighborhood support for this initiative. You need to listen to this and I am in favor of this.

BLAKE How much of the urban village are you leaving out?

RANCURET Less than 50%. We will bring it in later on.

BARFIELD In your estimation, was the Spangles proposal limited to a signage problem?

RANCURET The building proposed was not the right size because of the setback and the landscaping issues that the City had. The City did not want to do that. The Spangles people did not want to budge on that. The Spangles people drove off further negotiations.

BARFIELD Anyone that feels that they were not treated fairly can they appeal to this body. Did Spangles have that right?

RANCURET We were left hanging, Spangles declined to pursue the issue further.

BARFIELD Spangles said you are not willing to compromise.

RANCURET Yes we have, and the Spangles people know that.

ANDERSON I would like to move on if we can.

DAVID SCHUMMAN, Kansas Masonic home. I am here to support all three of the proposed plan initiatives.

LARRY BROWN The process has been completed after neighborhood meetings, and working together. We have worked with the members of Planning staff, an architect, and representatives of the City Government. We believe this is the right thing to do. It is improperly zoned the way that it is now.

JACK KELLOGG Business owner of 601 W. Douglas, and President of the Delano Business Association. This is a grass roots proposal that will benefit the neighborhood, increase the values of our business, increase the values of our property, and build more business. Business is attracted to character and we have to create better look in some way. We don't want a restrictive district like historic, or old town. Douglas Avenue will undergo the Douglas streetscapes plan. There will be 6 to 9 months of disruption because of construction, yet businesses have come here earlier because they want in. These are restrictions that will be good for businesses and for neighborhoods. You can't please everyone. Regarding the sign issue, from Seneca to McLean Boulevard I counted 38 signs. Only 5 of these signs are over the proposed 32 sq. ft size limit. We need to preserve our own environment. We want this to be a destination place. I urge you to approve this.

TONI TIMPY 1113 W. Douglas. owned business since 1991. I was in the negotiations with Spangles and they wanted to sue before we had even started talking. The said they had driven through Delano and Spangles said they didn't know if anyone could afford to eat at Spangles. Delano needs to change in a positive way. We are part of downtown, and those of us that have been working on this project want changes. We have a plan that will work. Businesses have a right to locate wherever they want. We will have to compromise as a group. I am for this plan.

DAN MCCLURE 929 W. Douglas. I have read and understand this plan. I am in favor of this plan. I am a small business owner. I like the proposed changes. The way that it is currently zoned, I am not allowed to move upstairs and live and run the business downstairs where my store will be. I would like a huge sign above my building too, but I have the opportunity to paint the sign of my building. This is about supporting the mom and pop shops, and I believe in this more than anything.

GAROFALO Are you saying sir that you are prohibited by current zoning to live upstairs?

MCCLURE Yes, as soon as it is rezoned from LI to LC, I will be able to remodel.

WARREN You are aware that after this plan is adopted, new tattoo places will be prohibited?

MCCLURE It makes no difference to me. I am already there and people come to me because of the quality of my work.

KATHY DITTMER, 823 Litchfield. We need to strengthen core neighborhoods. We cannot allow them to deteriorate anymore. I am in support of this plan. Delano is connected to the City and a vital part of the downtown. Let neighborhoods like Delano, without covenants or restrictions, be given the opportunity to set their own destiny. I urge you to support this.

LEE CASTOR, 225 S. Glenn. There are a lot of rentals and the owners do not live in the neighborhood. This is a family neighborhood. I do not like the residential community guidelines. A guideline committee also is a problem if I didn't like my neighbor and protested to the committee, it could cause him problems. We should respect other people's rights as to what they want to do in the house they live in.

JOAN RAPP, 324 N. Walnut. It seems a small thing, but it appears my property falls within the Urban Village area exempt from rezoning. People are talking about negotiations and nobody is answering those questions. My house was built in 1910, I don't know if I support this proposal or not. I am exempt from the rezoning, but we want to be rezoned.

GAROFALO Have you talked to staff about this?

RAPP I sent a letter to David Barber.

JEREMY HOPKINS 637 Highplains Circle representing 319 S. Oak Tri-mark signs. I lot of the people that we employ live in the Delano District, not everybody has the time to be here. I am opposed to this change. What are the restrictions going to be to me? I don't build pretty buildings. I build steel buildings to put people in there and put people to work. If businesses can't get in the neighborhood, because of restrictions I don't know how many people will get to work like this. The crime rate has to be going up if we have jobless people. There are zoning restrictions, and I want to leave things the way they are.

WAYNE WELLS I've lived here since 1968. I am in favor of this proposal which will help turn this neighborhood around.

KEITH STEVENS. I live in College Hill. We own two properties at 2nd and Handley. They have been in my family 75 years. They have been difficult to rent at times. I want my buildings rented. I am opposed to this change. I don't want vacate buildings. The overlay puts heavy restrictions on the properties and the ability to rent buildings. There is no provision to "opt-out" of the overlay.

GREG WHISMAN 143 N. Sedgwick. I am opposed to this initiative. I don't like people putting restrictions on us.

HERB REEVES My family has been in business for over 105 years, and is looking to expand some of our buildings, but the overlay district would prohibit this. I would hope that you would not approve this overlay district.

DEBORAH HILL 430 S. Walnut. I purchased property 1 year ago, I'm for the rezoning. I bought into this neighborhood, I want my daughter to grow up in this neighborhood. I am against the overlay, I bought a 4 plex made into single family, I've got a lot of sweat equity into this house, and want to build a sun room some day. Overlay guidelines restrict me on what I can do. The neighborhood is safe. They shouldn't have the right to tell me how to spend my money.

KURT SKINNER 845 Heiserman. I was the landscape architect responsible for preparing the Delano Neighborhood Plan, I just want to speak in favor of this plan. The industrial zoning put into place in the 1920's is out of character with most of the development in existence at that time. This plan was developed as a grass roots effort by 3 neighborhood organizations. Now they formed a community development corporation to help implement this plan. There was significant public input in the development of this plan. There has been a lot of misinformation spread in the neighborhood over the last 6 weeks about the overlay and design guidelines. Given that over 10,000 people live in this neighborhood, the number of naysayers is not that significant. I commend you for supporting this plan last year and encourage you to support this implementation proposal.

DOUG SCHOEN 229 N. Clarence. I'd like to speak on 2 behalf's. I live in the Delano neighborhood. The zoning really doesn't affect me. What bothers me is that I have to have an architect drawing to do work to my house. 13.6% of Delano residents live at poverty level. The average family household is \$41,600 income level. Trying to improve their home, they will do work for themselves. What if the design committee doesn't like it? Do you then have to go back to the architect to have changes made? It costs a lot of money to do that. In the next decade, a lot of property in Delano will be bought and sold for hopefully first time home buyers. I don't mind the rezoning, but I don't care for the design guidelines. I will be more than willing to give you 2000 Census statistics for this neighborhood if you'd like.

ROGER BAKER 121 N. Sedgwick. I'm opposed to this item as a property owner. The principal reason is because of the ad hoc committee of people determining what I can and cannot do with my property. I will be improving my property. The design will meet all the current codes.

GAROFALO You are not opposed to the rezoning?

BAKER I opted out of the rezoning.

CARRIE BAUR I support the rezoning, but I am greatly opposed to the overlay and the design guidelines. It is troublesome to me for many reasons. Delano is comprised of low -income families, many laid-off, and struggling to make ends meet. Those restrictions will not help stop building. Homeowners such as myself can't afford cost of architect design. As for the rezone option, we weren't given a chance to opt out.

COREY BAUR I oppose the overlay, the rezoning is fine.

HARLAN FORAKER 810 N. Douglas, northwest corner of Osage and Douglas. I am a member of the Delano Business Association and in favor of rezoning. I'd like my property rezoned to General Commercial. I am indifferent to the Overlay. The only concern with the design guidelines is that it becomes another set of building codes if I wanted to remodel or upgrade.

LISA TURNER 1602 Maple. I've lived there for 7 years, and my husband lived there during high school. I am in favor of rezoning, the overlay and guidelines are not as restrictive as what people believe. We are doing remodeling and are willing to work with guidelines. I want my home to look like it belongs in the neighborhood. We refinanced recently. We heard about people on restricted incomes, so are we. We have tried to bring our home up to standards. I have 3 young children, no objection walking in neighborhood after dark, a few extra guidelines personally won't be too restrictive.

DAVID MOLLHAGEN 3405 N. Hydraulic. I planned on putting up a billboard sign over a year ago. We applied for a permit and later found that Council was going to place a moratorium on Seneca. We went to a couple of committees developing the proposal and we understand what you are trying to do. Giving us the opportunity to build a billboard that would be conducive with the neighborhood. We are willing to give and take. Where is the middle of the road? No billboards allowed is not right. The District Advisory Board voted this proposal down.

BARFIELD What Council are you referring to on the moratorium?

MOLLHAGEN The City Council resolution adopted last November.

GAROFALO Which DAB and when was that?

MOLLHAGEN The DAB IV did deny this in September.

HENTZEN We will close the public hearing of this portion.

JOE LANG Law Department. I have three issues to touch on. You have before you three separate items: 1. A rezoning of properties. 2. Amendment to the UZC, which is the overlay district. 3. The design guidelines that will be adopted by an ordinance from WCC.

Regarding the overly district, from the original draft, there has been some changes to the composition of the Design Review Committee. The Law Department has some concern with the change because it was intended to be an internal review and not an outside committee comprised of private citizens. We recommended that we stay with the internal review committee. It is not appropriate to delegate this review authority to private citizens.

Regarding the rezoning, people have the right to let the Planning Department know if they want to opt out. There is no right to protest because of the downzoning nature of the proposal. Opting out of zoning is not the same as a zoning protest.

Finally, any questions about the moratorium I can answer those.

WARREN Is there a way to get back to the MAPC with an appeal of the Design Review Committee? Those appeals will go to the BZA, not to the MAPC, correct?

LANG That is correct.

WELLS We have to take 3 separate actions on these items?

LANG The motion can be all together but they should probably be separate.

WELLS Private citizens from the Delano neighborhood should not be allowed to sit on the design review committee?

LANG The legal recommendations is that they not be members of that committee. An advisory capacity would be acceptable.

BISHOP When you say quasi-judicial, does that mean they go onto the WCC?

LANG The rezoning will go onto the planning agenda of the WCC. On the overlay and design guidelines, you will recommend to the WCC, but it is a legislative decision. WCC is not bound by your recommendation because it is a legislative issue.

BARFIELD As an advisory body, the design committee would be duplicating what the DAB does?

LANG It depends on how it is set up. There would be members on the design review committee from the neighborhood. Appeals will go to the BZA.

BARFIELD I am talking about recommendations.

LANG The DABs are official bodies, but would not be involved in the design review process.

GAROFALO You have confused me. Are you saying the design review committee cannot legally function?

LANG No. Their needs to be when interpretation are necessary, there needs to be staff as to whether someone can qualify for the exemption process. The problem is who serves on that committee, citizens or official city people?

GAROFALO You're saying that the design review committee should be comprised of city staff makers?

LANG You can appoint anybody to serve on that committee, but you cannot have the representative of the citizens do that, if they are not appointed by Council.

GAROFALO Sounds like legal and planning staff need to come together.

LANG We will certainly do that.

WARREN I am going back to the design guidelines and the overlay district as proposed. They have changed so much recently. I feel like there is a possibility that a lot of people have waited until the final package is given to us before deciding to opt in or opt out on the zoning matter. I wonder if we should extend that deadline to opt in or out?

LANG Legally, there is no problem extending the deadline. There may be some logistical issues about when it goes to WCC. That is up to Planning staff.

BISHOP You mentioned the Old Town Design Committee, who is that?

LANG It is city staff. They do call on experts in Old Town for advice.

HENTZEN Who set the date today as a final date?

LANG It appears that the MAPC set the date to coincide with the public hearing date.

BARBER It was intended to allow people up until the public hearing date to opt out.

HENTZEN This was before us on August 8, 2002, and we approved the plan?

BARBER We are now implementing the plan through the adoption of the overlay district design guidelines, and rezoning initiative.

ANDERSON It seems to me that some of the testimony today, there is some strong neighborhood opposition to the overlay district and design guidelines. We could make a recommendation to the zoning aspect of this proposal. There were 86 people who signed these petitions opposing to the overlay and design guidelines. I don't think the rezoning aspect of this is a problem of this point. We need to take all three of these separate.

MOTION: To deny the protective overlay and design guidelines.

FURTHER DISCUSSION

BARFIELD I want to know about the DABs recommendation.

BARBER This proposal was presented to DAB 4 on September 4, 2002. The DAB had concerns with this and made the motion not to support this proposal at present pending further public input.

BARFIELD Don't you give this to information to us normally?

BARBER I normally don't put this type of report together. That was an oversight on my part.

JOHNSON At the DAB hearing, was it presented like today?

BARBER On August 8, 2002, I gave a PowerPoint presentation to the MAPC on this initiative. The DAB received that same presentation. Substantive changes to this proposal have been made since that DAB presentation.

BARFIELD I am not in agreement nor cannot support this overlay. We are appointed by the elected officials.

BISHOP I would like to ask legal if there is no problem taking these two together?

LANG Yes, you can take them together.

ANDERSON Is this going to go on to the City Council now?

LINDEBAK They will get the staff report and the minutes of this meeting.

ANDERSON I hope they get some of the testimony that we have heard today. I think staff can make a few recommendations and changes, soften some of that language, and get some support from the public and the neighborhoods.

JOHNSON In the event that we can break these out, if we voted in favor of the rezoning of this area today, does that eliminate future opt out opportunities?

LINDEBAK Today is the last day, until 5:00 p.m., for the rezoning opt out.

BISHOP I am not going to support the motion. By in large, the neighborhood was applauded for the hard work that has been down in developing the neighborhood plan and obtaining community input. These three items are a means of implementing that Plan, and many fears and concerns about the overlay and design guideline are unfounded. This neighborhood is a gateway to the museum district and the downtown district. These implementation tools are needed for the revitalization of older neighborhoods.

GAROFALO I am not going to support the motion. I think this needs to be worked on some more on the overlay district and the design guidelines. Some of these design guidelines may be a hardship on the elderly and the people not affluent in these neighborhoods. I don't think the rezone is a problem for most people.

WELLS I am going to have to declare a conflict because I am a property owner.

MARNELL I am going to support the denial motion. I think the Plan is a good plan, but my vote is going to be no because of the problems in the details of implementation.

ANDERSON It is unfortunate that there can't be some more work done on ways that can bring more people in agreement.

BARFIELD This body was appointed to make zoning decisions for all of Sedgwick County. We have to take into account that we are appointed to make those zoning decisions, and not have this ad hoc committees replace us.

WARREN We have approved I think five of these neighborhood plans. I did not realize that we had put an endorsement on the design guidelines and a review committee. I would not have supported that from the beginning. What I am hearing is that people have enough regulations and controls in our existing codes and that we don't need more that we can't read or understand. I had a call from someone on West Douglas that NuWay would not have ever fit in the neighborhood under the proposed overlay and design guidelines. I think we have enough regulations and controls.

HENTZEN Rather than take a vote right now, what do you think about the idea that we don't vote anything and we just wait until the next meeting for on the vote. I like this neighborhood. I feel we are about to reject the overlay and the design guidelines. I would like to see if we can defer this thing and continue to work on it with staff.

BARFIELD moved, **WARREN** seconded the motion, and it carried (6-3-1). **BISHOP, GAROFALO, JOHNSON** opposed; **WELLS** abstained.

BARFIELD We have a motion on the floor.

LINDEBAK You need to act on the zoning issue today.

LANG This opt out issue expires today at 5:00 p.m., as per notice deadline. However, City Council has the right to approve taking additional properties out of the rezoning when they deal with it.

MARNELL I support the rezoning, but I don't agree with today being the deadline.

LANG It is expensive to re-advertise the notice and wait. I think some type of message could go out giving them more to opt out. I think because of the nature of this notice, I think we could do a published notice. I think sending it on to WCC or delaying and giving more time, either one of those options will work.

WARREN I also support the rezoning, but I think we need a little additional time. Are you suggesting deferring this rezoning item?

LANG Yes, that is what I am thinking with a published notice advising of additional time to opt out. You have closed the public hearing.

WARREN So deferring would be a more favorable position.

LANG Make sure that you do a date certain.

MOTION: To extend opt out deadline to October 24, 2002.

WARREN moved, **BARFIELD** seconded the motion.

HENTZEN I would like to vote on the rezoning today and then send it to the City Council with a recommendation to accept addition opt outs to a date certain.

WARREN What if they turn it down?

LINDEBAK We could publish a notice advising of the extension of the opt out period to a time set by the MAPC.

WARREN I would put a notice of extension in that motion. Can people withdraw their opt out request if already submitted?

LANG That is if your recommendation had gone forward today. If you are moving to defer the opt time, the people could withdraw their request.

MARNELL Thirty day extension of opt out time is insufficient. I have a substitute motion to extend opt out date until MAPC meeting of December 19, 2002.

SUBSTITUTE MOTION: To defer rezoning and extended opt out deadline to December 19, 2002.

MARNELL moved, **ANDERSON** seconded the motion, and it carried (6-3-1) **JOHNSON, GAROFALO** and **BISHOP** denied; **WELLS** abstained.

Other matters

MOTION: To defer ZON2002-00024.

GAROFALO moved, **BISHOP** seconded the motion, and it carried (10-0).

MARNELL Thirty day extension of opt out time is insufficient. I have a substitute motion to extend opt out date until MAPC meeting of December 19, 2002.

5. Consideration of Subdivision Committee Recommendations

Items 5-1 through 5-6 may be taken in one motion unless there are questions or comments.

5-1. SUB2002-00065 – Final Plat – SHADOW RIDGE ADDITION, located east of Hillside, south of Pawnee.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A revised drainage plan is needed. Drainage improvements are required which may be a part of the street paving guarantee.**
- D. The plat's text in the final plat shall note the dedication of the streets to and for the use of the public.
- E. The Subdivision Regulations require street jogs of local streets to be 150 feet or greater between centerlines. **A modification has been approved for the 80-ft street jog between Sunnybrook Lane and Clifton (extending south of Sunnybrook Lane) which is less than the required 150 feet.**
- F. Due to the 58-ft streets, a zone change to SF-5, Single-Family District is needed. In the alternative, a restrictive covenant is needed limiting the site to single-family development. **The applicant intends to provide a restrictive covenant.**
- G. The applicant shall guarantee the paving of the proposed interior streets.
- H. The Applicant has platted 20-ft front building setbacks and 15-ft street side setbacks which represents adjustment of the Zoning Code standard of 25 feet and 20 feet respectively for the MF-29, Multi-family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. **The Subdivision has recommended that a modification be granted.**
- I. The **City Fire Department/GIS** needs to comment on the plat's street names. **The street names are approved.**
- J. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 7 and 24. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **The modification has been approved.**
- K. On the final plat tracing, the MAPC signature block needs to reference "Michael E. Lindebak, Secretary".
- L. On the final plat tracing, the MAPC signature block needs to reference "Bernard A. Hentzen, Chair".
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy requests additional easements.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: Approve, subject to staff comments, and citing the findings in their report.

COULTER moved, **MARNELL** seconded the motion, and it carried (10-0).

5-2. SUB2002-00052 – Final Plat – SHADOW WOODS ADDITION (formally HUNTERS GLEN), located on the west side of 135th Street West, on the north side of Maple.

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. An off-site drainage easement is needed. The drainage plan is approved. A guarantee is required.
- E. Traffic Engineering needs to comment on the need for any improvements to perimeter streets. Left turn lanes are needed along 135th St.
- F. The plat proposes one opening along 135th St. West. Complete access control has been dedicated along the plat's frontage to Maple. The opening for Lot 1, Block F should be in alignment with Burton across 135th St. West.

Access controls have been platted as requested.

- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- H. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. Reserves J & K need dimensions noted.
- L. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. The City Fire Department/GIS needs to comment on the plat's street names. Burton Circle needs to be revised to Texas Cir.
- N. The Applicant shall indicate a copy of the instrument which establishes the adjoining pipeline right-of-way to the north. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline right-of-way is provided for in the pipeline right-of-way agreements, it shall be indicated on the face of the plat.
- O. On the final plat tracing, the MAPC signature block needs to reference "Michael E. Lindebak, Secretary".

- P. On the final plat tracing, the MAPC signature block needs to reference "Bernard A. Hentzen, Chair".
- Q. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- R. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-ft utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- S. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- AA. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- BB. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: Approve, subject to staff comments, and citing the findings in their report.

COULTER moved, **MARNELL** seconded the motion, and it carried (10-0).

- 5-3. **SUB2002-00079 – Final Plat – WOODLAND LAKES ESTATES THIRD ADDITION, located south of Lincoln, west of 127th Street East.**
- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. The platting of minimum building elevations should be noted on the final plat tracing.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **Off-site drainage easements are needed along with a drainage guarantee. A revised drainage plan shall be submitted prior to MAPC meeting. A lot grading plan is also needed. Reserve E shall be expanded to include Lots 34 and 35.**
- E. The Applicant shall guarantee the paving of the proposed streets.
- F. The south segment of Glenmoor needs to be labeled as a 64-ft right-of-way.
- G. Left turn lanes along 127th St. East are needed contingent upon future traffic volumes.
- H. In conjunction with the original preliminary plat approval in 1995, an alternative sidewalk plan was approved for the entire site. That plan denoted the required sidewalk on one side of all through, non cul-de-sac streets (64-ft width) with the exception of the north segment of Glenmoor. In lieu of that segment of required sidewalk, sidewalk connections were made through Reserve B. **The applicant has indicated that the previous sidewalk plan is also proposed for this plat.**

- I. The use of the reserves for utilities located within platted easements should be referenced in the plat's text.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between this site's north property line and driving surface for Lincoln.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. For those reserves being platted for sidewalk purposes, the required covenant, which provides for ownership and maintenance of the reserves, shall establish that the homeowners' association shall maintain the sidewalk system planned for construction outside of the street right-of-way. This covenant shall grant to the City the authority to maintain the sidewalks outside of street right-of-way in the event the owners fail to do so.
- M. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City.
- O. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- P. The applicant has platted 20-ft building setbacks for the lots abutting the terminus of the cul-de-sacs; whereas the Zoning Code requires 25 feet. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. **The Subdivision Committee recommends approval of the setback modification.**
- Q. The **City Fire Department/GIS** needs to comment on the plat's street names. **The street names are approved.**
- R. On the final plat tracing, the MAPC signature block needs to reference "Michael E. Lindebak, Secretary".
- S. On the final plat tracing, the MAPC signature block needs to reference "Bernard A. Hentzen, Chair".
- T. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- U. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-ft utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- V. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- W. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- X. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Y. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Z. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- AA. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

- BB. Perimeter closure computations shall be submitted with the final plat tracing.
- CC. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- DD. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy requests additional easements.
- EE. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: Approve, subject to staff comments, and citing the findings in their report.

COULTER moved, **MARNELL** seconded the motion, and it carried (10-0).

5-4. SUB2002-00093 – One-Step Final Plat – BOOTH EARLY CHILDHOOD CENTER ADDITION, located west of Woodlaw n, on the north side of Mt. Vernon.

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. No guarantees are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. Storm sewer improvements for the parking lot are needed at the time of site development.
- D. The plat's text shall denote the creation of the floodway reserves in addition to including the standard floodway language.
- E. **Traffic Engineering** needs to comment on the access controls. The plat proposes one access opening along Mt. Vernon. Distances should be shown for all segments of access control. A meeting between the Traffic Engineer and Applicant is needed for a determination of the location of the access opening on Mt Vernon before the MAPC meeting.
- F. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- G. On the final plat tracing, the MAPC signature block needs to reference "Michael E. Lindebak, Secretary".
- H. On the final plat tracing, the MAPC signature block needs to reference "Bernard A. Hentzen, Chair".
- I. The applicant is advised that in regard to the portion of the building within the building setback; that while such areas of the existing structure may be maintained, no enlargement of the building in such area will be allowed and if removed, all subsequent rebuilding shall observe building setbacks.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.

- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To defer to a later date.

COULTER moved, **MARNELL** seconded the motion, and it carried (10-0).

5-5. DED2002-00026 – Dedication of Street Right-of-Way, from Scott and Jennifer Karst, for generally located south 13th Street, west of Meridian.

OWNER/APPLICANT: Scott and Jennifer Karst, 529 S. Broadview, Wichita, KS 67218

AGENT: Ruggles and Bohm, P.A., 924 N. Main Street, Wichita, KS 67203

LEGAL DESCRIPTION: The north 10 feet and the east 30 feet of the east 150 feet of Lot 38, Valley Acres Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2002-86 and is being dedicated for 10 feet of right-of-way along 11th Street and 30 feet of street right-of-way for a new street.

MOTION: Approve, subject to staff comments, and citing the findings in their report.

COULTER moved, **MARNELL** seconded the motion, and it carried (10-0).

5-6. DED2002-00027 – Dedication of Utility Easement, from Scott and Jennifer Karst, for property generally located south of 13th Street, west of Meridian.

OWNER/APPLICANT: Scott and Jennifer Karst, 529 S. Broadview, Wichita, KS 67218

AGENT: Ruggles and Bohm, P.A., 924 N. Main Street, Wichita, KS 67203

LEGAL DESCRIPTION: The west 10 feet of the east 150 feet of Lot 38, except the north 10 feet thereof, Valley Acres Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2002-86 and is being dedicated construction and maintenance of public utilities.

MOTION: Approve, subject to staff comments, and citing the findings in their report.

COULTER moved, **MARNELL** seconded the motion, and it carried (10-0).

6. Case No CON2002-00047 – John Henry Jackson (Contract Purchaser/Applicant) Conditional Use to allow used car sales on property described as:

The West 86 feet of Lots 2, 4, 6, 8 and 10, Carr's Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located on the southeast corner of 13th Street North and Grove.

BACKGROUND: The applicant, John Henry Jackson, is requesting consideration and recommendation for a Conditional Use to allow used car sales on property zoned "LC" Limited Commercial. The property (approximately 10,750 square feet) is described as the west 86-feet of Lots 2, 4, 6, 8 & 10, Carr's Addition, located on the southeast corner of the 17th Street North - Grove intersection. 17th Street fronts the north side of the property and Grove fronts its west side. The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" Limited Commercial zoning. The applicant has submitted a site plan.

The property is currently being used as an automobile detail shop. The site has 4 existing entrances/exits (entrances); 2 on Grove and 2 on 13th. The applicant has shown on the site plan that the 2 entrances that are closest to the 17th Street – Grove intersection as not being used. The site plan shows these two entrances being used as auto display spaces. The two entrances farthest from the intersection, one on Grove and the other on 17th would remain open. The site plan shows some proposed and existing landscaping, a proposed 6-foot privacy fence on the south and east sides (where the site abuts developed property) an existing building (no size given) and a proposed sign location. There is some dimensional control given on the site plan.

The properties to the north, east and west are zoned "LC" Limited Commercial and all of these properties have frontage on 17th Street. Across the street from the site, northeast of 17th and Grove, there are several vacant businesses for a block east, until the

zoning turns into "TF-3", Duplex zoning. Across the street, northwest of 17th and Grove, there is a garage, a beauty shop and some undeveloped "LC" properties until the zoning turns into "SF-5", Single Family Residential zoning. The properties west of the site and across Grove include the Fire Department's Engine House #10, an undeveloped property and a laundry mat, after which the zoning turns into "TF-3". The entrance to the Fire Station is directly west, across the street from the site's north entrance onto Grove. The property abutting the site on the east is a small vacant retail business with vacant businesses and a burger shop east of that for the next block, after which the zoning becomes "TF-3". Properties to the south of the site are zoned TF-3" and are developed as single family residential, with the exception of the property abutting the site's south side. This property is zoned "B" Multifamily and is developed as a beauty shop. The properties fronting 17th for a block – a block and a half east and west of the 17th and Grove intersection is the only solid grouping of properties zoned "LC" between Hillside and Hydraulic, with perhaps two exceptions the rest of the properties in this mile are zoned either "TF-3" or "SF-5".

CASE HISTORY: The Carr's Addition was approved by the Board of Commissioners on March 31, 1913.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC" Limited Commercial	Vacant business, garage, beauty – barber shops
	"TF-3" Duplex	Single-Family Residential
EAST:	"LC" Limited Commercial	Vacant businesses, burger shop, retail
SOUTH:	"B" Multi-Family Residential	Beauty shop
	"TF-3" Duplex	Single-Family Residential
WEST:	"LC" Limited Commercial	Fire Station, laundry, Undeveloped
	"TF-3" Two Family Residential	Single-Family Residential, church

PUBLIC SERVICES: 17th Street North, at this intersection, is a 4-lane arterial street. Grove, at this intersection is a 2-lane arterial. The estimated traffic volume of (ADT) trips per day at the 17th - Grove intersection is 5211 ADTs on the west side, 5972 ADTs on the north side, 5479 ADTs on the east side and 5457 ADTs on the south side. Water/sewer and other municipal services are provided to the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide, as amended in 2002, of the Wichita – Sedgwick County Comprehensive Plan identifies this property as Commercial. The current zoning of the site is "LC" Limited Commercial. The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" Limited Commercial zoning. The Wichita – Sedgwick County Comprehensive Plan, as amended by Resolution 5-02, directs the location of auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses to areas (existing or planned) containing similar uses and away from neighborhood commercial areas. This area contains neighborhood commercial and no auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be DENIED. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area. There is a failed vehicle sales lot on the southwest corner of 13th Street North and Spruce, approximately ½ mile away. The zoning for this property is "GC", General Commercial. The commercial uses along this portion of 17th Street North are neighborhood serving and do not involve outdoor display or storage associated with vehicle sales.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is zoned "LC" for a block on either side of the 17th – Grove intersection, with SF-5" and "TF-3" zoning west and east of the "LC" zoning along 17th and north and south (behind) of the "LC" zoning at this intersection. The existing businesses in the neighborhood are local retail in character. The most intense use at the intersection is the site's current use as a detail shop. This use does include the parking of cars waiting to be detailed or waiting to be picked up by their owners. There are established residential developments adjacent to the site on the south and north sides to 13th Street North and 21st Street North and east to west from Hillside to Hydraulic.
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently used as a detail shop, which is a permitted use in "LC" zoning. "LC" zoning permits a wide range of uses and the site could be developed with one of the many "LC" permitted uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other "heavier" commercial uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Unified Zoning Code requires a Conditional Use for 'vehicle and equipment sales, outside' in "LC" Limited Commercial zoning. The Wichita Land Use Guide of the 1999 update to the Wichita – Sedgwick County Comprehensive Plan identifies this property as Commercial. The current zoning of the site is "LC" Limited Commercial. The Wichita – Sedgwick County Comprehensive Plan, as amended by Resolution 5-02, directs the location of auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses to areas (existing or planned) containing similar uses and away from neighborhood commercial areas. The proposed car sales lot does not meet these criteria. The nearest car sales lot is located just west of the 13th Street North – I-35 interchange.

If, however, the Planning Commission believes this is an appropriate use, staff recommends approval be subject to the following conditions:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of used cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups.

2. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
3. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards. The revised site plan will include more dimension control, size of the existing building and proposed and existing lighting.
4. The applicant shall install and maintain landscaping in accordance with the revised landscape plan submitted with the revised site plan.
5. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
7. There shall be no use of elevated platforms for the display of vehicles.
8. No amplification system shall be permitted.
9. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
10. The lighting standards of Section IV -B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted.
11. The applicant shall erect and maintain a solid six-foot screening along the southern property lines that is adjacent to residential zoning.
12. The applicant shall guarantee the closure of the Grove and 17th Street entrances that are closest to the intersection and continue the curb and gutter according to City standards. Dedication of access control allowing closing the 17th and Grove entrances that are closest to the intersection by separate instrument shall be submitted to Staff for recording.
13. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

BILL LONGNECKER, Planning staff, presented the staff report. Staff is recommending denial.

BARFIELD Are you suggesting the property to the immediate south is zoned multifamily?

LONGNECKER Yes.

BARFIELD That corner has almost always been automobile activity.

JOHNSON Would this limit the number of cars on this lot?

LONGNECKER Yes, we will need dimension control. The applicant wants to operate that detail shop, and it will have two bay doors. This site will still need a circulation plan.

JOHNSON What he is doing there now, is it the right zoning?

LONGNECKER Right.

JOHNSON You couldn't stop the detail shop?

LONGNECKER We will not stop detail work.

APPLICANT'S AGENT: Indicated he was trying to improve the business.

MOTION: Approve subject to staff recommendations 1-13, with Condition 14 to require properties on the south to be paved parking.

BARFIELD moved, **ANDERSON** seconded the motion, and it carried (10-0).

There was a general discussion regarding the drive approach on the property to the west.

BARFIELD Clarified that his motion included that they were to see if the Fire Department needed the drive on the applicant's property; and if so, they would not be required to close it.

ANDERSON Indicated that as the second to the motion, he was in agreement that the motion included that provision.

MARNELL Do you understand that on Condition 2 that they can do detailing work if it is done inside?

LONGNECKER Yes.

7. **Case No ZON2002-00054** – James A. Eliot (Owner/Applicant) request zone change from “SF-20” Single-Family to “GC” General Commercial on property described as:

A tract in the East 1/3 of the North 1/2 of the Northeast 1/4 of Section 17, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as Beginning at a point 808.5 feet North of the Southeast Corner thereof; thence North along the East line of said Northeast 1/4, 262.58 feet to a point 264 feet South of the Northeast Corner of said Northeast 1/4; thence West parallel with the north line of said Northeast 1/4, 330 feet; thence North parallel with the East line of said Northeast 1/4, 264 feet; thence West along the North line of said Northeast 1/4, 454.09 feet to the Northwest Corner of the East 1/3 of the North 1/2 of said Northeast 1/4; thence South along the West line of the East 1/3 of the North 1/2 of said Northeast 1/4, 518.12 feet; thence East parallel with the South line of the North 1/2 of said Northeast 1/4, 797.87 feet to the beginning. Generally located South of MacArthur and west of Tyler (87th Street West).

BACKGROUND: The applicant requests a zone change from “SF-20” Single Family to “GC” General Commercial on a 1.18 acre unplatted tract located south of MacArthur and west of Tyler. The applicant owns a total of 6.52 acres at this location, and the remainder of the applicant’s property will remain zoned “SF-20” Single Family and developed with the applicant’s single family residence. The subject property is proposed to be developed as a self-storage service warehouse, which is first permitted by right in the “GC” General Commercial zoning district.

The surrounding area is characterized primarily by agricultural uses with Mid-Continent Airport and Mid-Continent Industrial Park within the general vicinity. The property to the north across MacArthur is zoned “SF-5” Single-Family, is owned by Mid-Continent Airport, and is undeveloped. The property to south and west is zoned “SF-20” Single Family, is owned by the applicant, and is developed with a single-family residence. The property to the east is zoned “SF-20” Single Family and is developed with a single family residence.

Since the surrounding properties have residential zoning, screening will be required along the south, east, and west property lines. The compatibility setback standards will require a 25-foot building setback along the south, east, and west property lines unless a Zoning Adjustment is granted by the Planning Director and Zoning Administrator to reduce or waive the compatibility setback. Since the property adjoins the Wichita city limit, annexation will be required as a condition of platting; therefore, the property will be developed according to the requirements of the City’s Landscape Ordinance.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: “SF-5” Undeveloped
SOUTH: “SF-20” Single family
EAST: “SF-20” Single family
WEST: “SF-20” Single family

PUBLIC SERVICES: The subject property has frontage along MacArthur, a two-lane arterial street. Current traffic volumes on MacArthur are approximately 5,700 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on MacArthur will increase to approximately 11,300 vehicles per day and recommends that MacArthur be widened to four lanes. The existing access drive to the subject property is located more than 400 feet from the intersection of MacArthur and Tyler; therefore, this access drive would be permitted full movements under the Access Management Policy since urban density development is expected in the future in this area thus allowing urban access management policies to be applied to the subject property. The subject property meets the right-of-way width and drive separation requirements of the Access Management Policy. Public water and sewer service are not available to the subject property; therefore, a guarantee for the extension of water and sewer service and a restrictive covenant limiting the subject property to domestic uses until sanitary sewer service is extended will required as a condition of platting.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for “Industrial” development. In fact, the property is within a 15 square mile area around Mid-Continent Airport that is identified as appropriate for industrial development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses be located in close proximity to support services such as major arterials, truck routes, highways, utilities trunk lines, rail spurs, and airports.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting the property within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by agricultural uses with Mid-Continent Airport and Mid-Continent Industrial Park within the general vicinity. Property within the Mid-Continent Industrial Park is zoned “LI” Limited Industrial and is located approximately one-quarter mile west of the subject property. Given the proximity of the site to the airport and industrial zoning and uses and the likely future development of industrial uses in the area, the requested zone change is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned “SF-20” Single-Family; however, the applicant owns an insufficient amount of land to develop another single family residence on the property due to the lack of available municipal sewer service. Also, the subject property is located in close proximity

to Mid-Continent Airport and very near the approach zone to one of the runways; therefore, future residential development is not suitable for the area, as reflected by the Land Use Guide recommending industrial development for the area.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on remaining residentially-zoned properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the buffer, screening, and street yard requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting these properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses be located in close proximity to support services such as major arterials, truck routes, highways, utility trunk lines, rail spurs, and airports. The subject property conforms with both the Land Use Guide and the Locational Guidelines.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated since access and utility issues will be addressed according to adopted policies through the platting process.

MOTION: Approve, subject to staff comments, and citing the findings in their report.

JOHNSON moved, **ANDERSON** seconded the motion, and it carried (10-0).

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8. Case No ZON2002-00052 – Leewood Homes, Inc., request zone change from "SF-5" Single-family Residential to "TF-3" Two-family Residential on property described as:

A tract of land lying in the Northeast Quarter of Section 1, Township 27 South, Range 1 East of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; more particularly described as follows:

BEGINNING at a point lying on the South line of said Northeast Quarter 50.00 feet West of the Southeast corner of said Northeast Quarter, said point being the Northeast corner of a tract to be known as the Voicestream Addition an addition to Wichita, Sedgwick County, Kansas; thence along the North line of said Voicestream Addition, and along the South line of said Northeast Quarter on a Kansas South Zone Gird bearing of S 88 degrees 51'49" W, 270.00 feet; thence continuing along said North line, N 00 degrees 43'24"W, 170.00; thence continuing along said North line, S 88 degrees 51'49" W, 826.45 feet; thence continuing along said North line S 49 degrees 32'56" E, 256.12 feet to a point on said South line; thence along said South line, S 88 degrees 51'49" W, 372.20 feet to the Southeast corner of Courts II Addition, an addition to Wichita, Sedgwick County, Kansas; thence along the East line of said Courts II Addition, and along the East line of Meadow Oaks Addition, an addition to Wichita, Sedgwick County, Kansas, N 00 degrees 41'40" W, 788.58 feet to the Southwest corner of a tract to be known as Northeast Elementary School Addition, an addition to Wichita, Sedgwick County, Kansas; thence along the South line of said Northeast Elementary School Addition, N 88 degrees 51'26" E, 1275.46 feet to a point 50.00 feet West of the East line of said Northeast Quarter; thence parallel with said East line S 00 degrees 43'24" E, 788.73 feet to the POINT OF BEGINNING. Said tract CONTAINING: 881,919 square feet or 20.25 acres of land, more or less. Generally located approximately 600 feet north of Mainsgate on the west side of Woodlawn.

BACKGROUND: The applicant is seeking to rezone property currently zoned SF-5, Single-family Residential to TF-3 Two-family Residential. The property is located approximately 2,000 feet south of 29th Street, west of Woodlawn, and is 20.24 ac res in size.

The land to the north is zoned "SF-5" Single-family Residential, and is the proposed site for a new Northeast elementary school. Property to the east and south is zoned "GO" General Office, and is the location of a medical office, and is open space for an apartment complex. The property to the south is zoned "SF-5" and "GO". Voicestream is located on the "GO" property, and a Conditional Use for ancillary parking for Voicestream was recently approved by MAPC for the "SF-5" tract. Land to the west is zoned "SF-5" Single-family Residential and is developed with homes.

The *Wichita Land Use Guide* depicts this site as appropriate for "low density residential" uses. This residential category provides for the lowest density of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions and planned developments with a mix of housing types that may include townhouse and multi-family units. "TF-3" zoning permits a minimum lot size of 3,500 square feet for single-family or 3,000 square feet per dwelling unit for duplex or a maximum of 14.5 dwelling units per acre. "TF-3" zoning is considered a medium density district. In contrast, the SF-5 Single-family residential district, which is considered to be low density, requires a minimum lot size of 5,000 square feet, unless the cluster provision is utilized which allows for a lot size of 4,000 square feet, provided permanent open space is provided.

Depending on the density of development, this project may generate the need for a left-turn lane and/or a decel-lane.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5", Single-family Residential; vacant, proposed elementary school
SOUTH: "GO", General Office; parking and office
EAST: "GO", General Office; apartments
WEST: "SF-5", Single-family Residential; homes

PUBLIC SERVICES: The full range of public services is available. Traffic along Woodlawn ranges in volume between 18,204 and 19,917 vehicle per day. Year 2030 projections predict volumes will increase to 25, 538 ADT.

CONFORMANCE TO PLANS/POLICIES: Comprehensive Plan "residential location guidelines" recommend that medium-density residential uses may serve as a transitional land use between low density and high-density residential uses, and may serve to buffer low-density residential uses from commercial uses. Medium density uses should be allocated within walking distances of neighborhood serving commercial centers, parks, schools, and public transportation routes. Traffic from medium density uses should not add to the traffic volumes in lower density residential neighborhoods. Medium density uses should be sited where they will not overload or create congestion in existing and planned facilities/utilities.

In this instance, the "TF-3" zoning would provide a buffer between the "GO" zoning and office use located to the south and the "SF-5" zoned school site to the north. This site is located near to a proposed school and an existing park. Neighborhood serving commercial uses are located to the south, just a little over a half-mile away. K-96 Highway, located less than a mile to the north, provides a convenient way to quickly access major transportation routes and citywide and regional services

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The land to the north is zoned "SF-5" Single-family Residential, and is the proposed site for a new Northeast elementary school. Property to the east and south is zoned "GO" General Office, and is the location of a medical office facility and is open space for an apartment complex. The property to the south is zoned "SF-5" and "GO". Voicestream is located on the "GO" property and a Conditional Use for ancillary parking for Voicestream was recently approved by MAPC for the "SF-5" tract. Land to the west is zoned "SF-5" Single-family Residential and is developed with homes. This tract of land is an infill property as nearly all of the land surrounding the application area is either developed, or is committed to development of one type or another.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as zoned, however there is a range of residential uses from single-family to multi-family developments in the area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: "TF-3" zoning should not create any significant detrimental affects. Increased density would result in an increase in traffic generation, and demands on public services. However, these increases are modest and the facilities are in place or can be accounted for during the platting process.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning is consistent with medium density location guidelines which state such uses should be: located near public facilities such as schools and parks, directly accessible to arterials and they should not overload public facilities. Additionally, "TF-3" zoning can act as a buffer between other zoning districts, such as "SF-5" and "GO".
5. Impact of the proposed development on community facilities: Depending on final development densities, additional traffic may be generated by this request. Impacts on community facilities will be clarified at the time of platting, however a left turn lane and a decel-lane may be necessary.

MOTION: Approve, subject to staff comments, and citing the findings in their report.

JOHNSON moved, **ANDERSON** seconded the motion, and it carried (10-0).

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9. **Case No ZON2002-00053** – CBB Northlake LLC c/o C Bill Bachman (Owner/Applicant); Poe & Associates c/o Kenny Hill (Agent) request Sedgwick County zone change from "SF-20" Single-family Residential to "OW" Office Warehouse on property described as:
Commencing at the Northeast corner of the Northwest Quarter of Section 24, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence West on the North line of the Northwest Quarter of said Section 24 for a distance of 220.00 feet to the point of beginning; thence South at right angles to the North line of the Northwest Quarter of said Section 24 for a distance of 450.00 feet; thence West for a distance of 900.00 feet; thence North for a distance of 450.00 feet to a point on the North line of the Northwest Quarter of said Section 24; thence East for a distance of 900.00 feet to the point of beginning, subject to road right-of-way. Generally located south of 53rd Street North, approximately ½ mile west of Meridian

BACKGROUND: The applicant requests a zone change from "SF-20" Single Family Residential to "OW" Office Warehouse on 8.26 acres of unplatted property located approximately ¾ of a mile southwest of the 53rd Street North – Meridian Avenue intersection. The subject property is part of 98.11 unplatted acres owned by the applicant along the south side of 53rd, west of Meridian and east of the Wichita-Valley Center Flood Control. The site is approximately ¼ mile north and ½ mile west outside the Wichita city limits.

The character of the surrounding area is undeveloped rural with a few scattered single-family residences, an old night club and a vacant motel. The 'Moorings' single-family residential development (zoned "SF-5", Single-Family Residential) is approximately ¼ mile south of the site. The surrounding zoning in all directions is "SF-20". There is "LC" Limited Commercial zoning on 3 of the 4 corners of the 53rd Street North – Meridian Avenue intersection, approximately ¾ mile east of the site.

The proposed use of the subject property is a RV Storage and Office Warehouse. The applicant has turned in a site plan which shows the site having 6 metal warehouses with metal gable, 4-12 pitched, roofs, set in a straight line facing 53rd Street North. The middle 2 units (#'s 3 & 4) have office space in the front, with a gabled, wood, porch entrance and a cupola on the peak of the roof. These two units are 15,520 square-feet in size. The 4 outer units (#'s 1, 2, 5, & 6) have the same roof as the middle 2 units but lack

the office space, the wood porch entrance and the copula on the peak of the roof. These units are 15,840 square-feet in size. All 6 units are shown as enclosed storage facilities with independent, fully enclosed bays. The site plan shows a 46-foot wide (x) 8-foot high berm on the south, back side, a fence (no size or type given) on the sides and front sides and trees along all 4 sides. There is one entrance into the site. No outside storage areas, lighting, signage, easements, parking, or the type of surface for parking and internal circulation is given.

The proposed use is defined by the Unified Zoning Code as 'Warehouse, Self-service Storage', which is first permitted by-right in the "OW" Office Warehouse zoning district. This use is defined as an enclosed storage facility with independent, fully enclosed bays that are leased to persons exclusively for dead storage of their household goods or personal property.

The "OW" Office Warehouse zoning district is primarily intended to accommodate office and warehousing activities for the building trades and similar businesses with operating characteristics that do not require highly visible locations or the type of vehicular access needed for retail and high-intensity office development. The "OW" Office Warehouse zoning district permits outdoor storage; however, the outdoor storage area is limited to an area equal to the size of the warehouse building and must be screened from any adjacent lot, regardless of its zoning.

CASE HISTORY: The subject property is part of 98.11 unplatted acres owned by the applicant.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"	Rural, vacant motel, night club, single-family residence
SOUTH:	"SF-20"	Undeveloped
EAST:	"SF-20"	Rural
WEST:	"SF-20"	Rural, single-family residence

PUBLIC SERVICES: The subject property has frontage to 53rd Street North, a 2-lane arterial. The nearest intersection is the 53rd – Meridian Avenue intersection, which is approximately ¾ mile to the east. There are no traffic counts at this intersection. The site has no water or sewer. The nearest access to water is approximately ¾ of mile east of the site at the 53rd – Meridian Avenue intersection. The nearest sewer service is located ¼ mile south of the site in the Mooring subdivision.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development.

Low Density Residential provides for the lowest density of urban residential use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types including townhouses and multi-family. Schools, churches and similar uses are also permitted. This area is also identified as being in the 2010 Urban Service Area, which is Wichita's urban fringe areas that are partially developed or have the potential to be developed by the year 2010. This is the area in which City expansion and extension of municipal services and infrastructure should be focused over the next 10 years. "OW" Office Warehouse zoning is generally compatible with the "Commercial" or "Industrial" designation of the Wichita-Sedgwick County Comprehensive Plan. It is primarily intended for application within the City of Wichita, although it may be appropriate for application in areas of unincorporated Sedgwick County that have been designated as "urban service areas". The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Planning Staff finds that the development of the site might be appropriate for Office Warehouse because of the character of the existing uses directly to the north of the application area and Big Ditch to the west, and location of the site on a major arterial. However, with adjacent single-family residential zoning on all sides of the site, certain permitted uses in the "OW" zoning designation would be inappropriate. Protective overlay provisions to buffer the proposed use from surrounding residentially zoned property are needed to avoid adversely affecting future single-family residential development. The proposed development as shown on the site plan provides for landscaping along 3 sides of the site as well as a berm on the backside and unspecified fencing. Solid screening and application of the Landscape Ordinance, with the berm in the rear, plus discrete directional lighting, and an approved surface for the internal circulation could minimize the impact of this development on the single-family residential zoning and development in the area.

There is no water or sewer service available to the site at this time. No private sewer system will be allowed on the site. Extension of sewer service to the property can be provided from the Moorings subdivision to the south of the site.

Based upon information available prior to the public hearings approval is recommended subject platting within one year and the following provisions of a Protective Overlay District:

1. No outside storage shall be permitted.
2. No private sewer system allowed on the site.
3. Solid screening on the 3 sides that are not bermed and the Landscaping Ordinance shall be applied.
4. Approved all weather surface for parking and circulation within the site.
5. Use shall be limited to those allowed in the SF-20 zoning district and warehouse, self-service storage.
6. The development is designed so as to compliment the potential residential development of the area as represented by the Moorings subdivision to the south.
7. Development of the site shall conform to an approved site plan.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is undeveloped rural with a few scattered single-family residences, an old nightclub and a vacant motel. There is a single-family subdivision being developed that is within ¼ mile of south the site. The properties adjacent to the subject property in all directions are

zoned "SF-20" Single Family Residential. The requested "OW" Office Warehouse zoning is the first non-residential zoning in the area.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single Family Residential and is suitable for single-family residential development. The subject property has frontage on 53rd Street North, an arterial street, which lends itself to non-residential development. Lack of water and sewer service at the site and the surrounding area has hindered development, but the area is within the 2010 Urban Service area, which implies that these services should be available by 2010.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The nearby properties are zoned "SF-20" Single-Family Residential but the adverse impact on them should be mitigated by the "PO" attached to the "OW" Office Warehouse zoning district.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. Low Density Residential provides for the lowest density of urban residential use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types including townhouses and multi-family. Schools, churches and similar uses are also permitted. This area is also identified as being in the 2010 Urban Service Area, which is Wichita's urban fringe areas that are partially developed or have the potential to be developed by the year 2010. This is the area in which City expansion and extension of municipal services and infrastructure should be focused over the next 10-years. "OW" Office Warehouse zoning is generally compatible with the "Commercial" or "Industrial" designation of the Wichita-Sedgwick County Comprehensive Plan. It is primarily intended for application within the City of Wichita, although it may be appropriate for application in areas of unincorporated Sedgwick County that have been designated as "urban service areas". The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
5. Impact of the proposed development on community facilities: The site must have public sewer service. Extension to the Moorings subdivision to the south would provide that access. The proposed use as Office – Warehouse would have a minimum impact on that existing sewer service and create very little additional traffic demand.

MOTION: Approve, subject to staff comments, and citing the findings in their report.

JOHNSON moved, **ANDERSON** seconded the motion, and it carried (10-0).

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10. **Case No CUP2002-00033 DP93 #2** – Ben H. and Mary E. Titus (Owner); Don Folger and Associates, c/o Don Folger (Agent) request Amendment to Spencer Gardens Community Unit Plan on property described as:

Lot 6, Block 1, Replat of Part Spencer Gardens Addition, Wichita, Sedgwick County, Kansas. Generally located South of Pawnee approximately 500 feet west of Oliver.

BACKGROUND: The applicant is seeking to remove the restriction that prohibits a car wash on Parcel 6 of DP-93 Spencer Gardens Community Unit Plan. The amendment is also requested to comply with Conditional Use approval required when a proposed car wash site is located within 200 feet of residential zoning.

The application area is located on the northeast corner of the C.U.P. and is 0.91 acre in size. The proposed car wash includes one automatic bay, four self-service bays, four vacuum stations, and a designated "future oil-changing bay".

The proposed site plan shows a 20-foot setback along Pawnee. This reduced setback was approved during Amendment #1 to encourage placement of building facades closer to the street instead of auto-oriented activities such as parking lots. The 20-foot setback conflicts with the setback requirement for a car wash in Article III, Section III-D.6.f(1) of the Unified Zoning Code, which specifies a 35-foot setback for all structures along arterial streets. Also, two more queuing spaces are needed for the automatic car wash bay. The drive aisle on the west property line is below the 24-foot minimum width. The turning radii to get into the queues are too tight on portions of the plan, particularly on the southeast corner of the site where the maintenance shed is in the queuing path. CUP General Provision #10 requires cross-lot circulation among separate ownerships but the site plan does not propose any cross-lot circulation with the adjoining parcel to the west, Parcel 5.

The area north of Parcel 6 is the Meadowlark Neighborhood, which is a well maintained, predominately single-family residential neighborhood with a few duplexes on Pawnee. The property to the east is zoned "LC" Limited Commercial. The tracts along Pawnee are vacant, but an interior parcel to the southeast of the application area is a KGE substation. The adjoining land to the south and west is the site of a new self-service warehouse facility. The remaining portions of Spencer Gardens are vacant. Gypsum Creek borders the C.U.P. on the south.

CASE HISTORY: DP-93 was originally approved in 1978 as Spencer Gardens Residential C.U.P. A major amendment was approved January 9, 2001 and it was renamed DP-93 Spencer Gardens C.U.P., deleting the reference to "residential" since the C.U.P. consisted of nine commercial parcels. The property was originally platted as Spencer Gardens, recorded July 2, 1979. It was replatted as Replat of a Portion of Spencer Gardens, recorded June 13, 2001.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-6"; "TF-3"
EAST: "LC"

Single-family residences; duplex
KGE substation, vacant, pawnshops, furniture store

SOUTH: "LC"
WEST: "GC"; "LC"

Vacant, Boeing office facility
Warehouse, self-service storage, and vacant

PUBLIC SERVICES: Transportation access is via Pawnee, a four-lane arterial street. Daily traffic counts on Pawnee in 2002 were 16,127 for eastbound lanes and 17,516 for westbound lanes. This was a ten percent increase from 1997. It is projected to increase to 21,786 in 2030, without accounting for the commercial development of this tract.

The intersection of Pawnee and Oliver recently was improved to five-lane status. A medial extends from Oliver east on Pawnee as far west as Pershing. The proposed site plan shows one access point directly across from Pershing, which is as was approved on Amendment #1 in 2000.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "Commercial" development. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guidelines** of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The use of Parcel 6 for commercial activity is in conformance with **Strategy III.B.1**. This proposal does not strongly support **Strategy III.B.2** since the out parcels are not well integrated with the remainder of the site with internal circulation nor is there a requirement for consistency of materials/landscaping palette by the existing C.U.P. provisions. It does limit access to one drive opening that is situated across from Pershing, which supports one aspect of the locational guidelines.

The Meadowlark neighborhood to the north is designated as a "conservation" area on the Wichita Residential Area Enhancement Strategy Map of the *Comprehensive Plan*. The Area Treatment Classification Map identifies the general location as part of the "conservation" area, which would be an area that is basically sound but needs to be protected from future structural and market value decline of residential structures. **Residential Objective II.B** of the *1999 Update* seeks to "minimize the detrimental impacts of higher intensity land uses and transportation facilities located near residential living environments" through **Strategy II.B.4** that recommends plan review "to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas". The proposed site plan conflicts with **Objective II.B/Strategy II.B.4** by orienting the vacuums nearest the residential neighbors and by orienting the buildings with car wash bays areas so they are clearly visible from the houses to the north where noise and appearance is most detrimental. Building elevations and materials have not been provided to date, precluding evaluation of the compatibility of the architectural elements with the nearby neighborhood.

RECOMMENDATION: The Wichita City Council specifically excluded car washes as a permitted use on any parcel within DP-93 Spencer Gardens C.U.P. This deliberate action reflected the governing body's legislative intent less than two years ago that this particular use would be detrimental to the stability of the nearby neighborhood. The applicant seeks to overturn this prohibition.

Further, this request is to evaluate the appropriateness of a car wash as a "Conditional Use". The Unified Zoning Code policy is to require a greater level of scrutiny when a car wash would be within 200 feet of residential use, as in this situation where it is directly across the street from the Meadowlark neighborhood.

At a more detailed level, the proposed site plan could lessen the impact on the surrounding neighborhood by reorienting the main structure with the openings facing east/west to minimize visibility of activities within the car wash bays and place vacuum/drying stalls and "future oil changing bays" on the south or west property lines that are less visible from Pawnee and the Meadowlark neighborhood and nearer the mini-storage use being developed to the south and west. Also, observing the 35-foot standard setback commonly required by both C.U.P.s and car washes approved by "Conditional Use" would reduce impacts. Quality building materials that blend better with residential neighbors have been required by a recent car wash approval at 51st Street South and Hydraulic (CON2002-00016) and was employed at Central and Old Manor (CU-563) and Hillside and 31st Street South (CU-437). Potential signage as approved by the C.U.P. could result in 157 square feet of signage, larger than often allowed on car washes in close proximity to residential use. Lighting standards could be limited in height, for example no more than 14 feet in height within 200 feet of residential zoning. Other car washes have had time restrictions imposed on height of light standards and hours of operation for the vacuums because lighting and noise are some of the biggest complaints from neighbors; however, time restrictions are difficult to enforce.

Based on these factors and information available prior to the public hearing, Staff recommends the application be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning, uses and character of the area to the north is predominantly single-family use zoned "SF-5" Single-family with a few duplexes zoned "TF-3" Two-family. The property to the east is vacant; and the area to the southeast is a KGE substation. Heavier commercial uses are located farther to the east along Oliver, which has no residential uses south from Pawnee to the Turnpike underpass. The property to the south and west is zoned "GC" General Commercial and is a mini-storage facility. The rest of DP-93 is undeveloped.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed in a wide range of uses as zoned "GC" General Commercial. In fact, car wash is one of the few restrictions imposed by the Wichita City Council on the use of this property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Meadowlark Neighborhood Association Car perceived car washes as being detrimental to neighborhood stability during the 2001 zoning case

(ZON2000-00060/CUP2000-00050). The Meadowlark neighborhood is the area most likely to be impacted by removal of the restrictions, and it could erode the stability of the neighborhood. To a lesser degree, the vacant property nearer the southwest corner of Pawnee and Oliver and a nearby commercial use that is well maintained could be impacted if the character of the commercial use of Pawnee is of lower quality.

4. Length of time the property has remained vacant as zoned: The property been vacant as zoned for only one year (June 13, 2001).
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The use of Parcel 6 for commercial activity in general is in conformance with Wichita Land Use Guide for "Commercial" use. **Strategy III.B.2** for integrating out parcels within a planned center or strip commercial area by internal circulation or consistency of materials/landscaping palette is not supported by the requested amendment except that it does limit access to one drive opening that is situated across from Pershing. The proposed site plan conflicts with **Objective II.B/Strategy II.B.4** by orienting the vacuums nearest the residential neighbors and by orienting the buildings with bay areas clearly visible from the houses to the north where noise and appearance are most detrimental. Building elevations and materials have not been provided to date, precluding evaluation of the compatibility of the architectural elements with the nearby neighborhood.
6. Impact of the proposed development on community facilities: Traffic impacts should not be different than for other potential commercial uses. The greatest increase would be in water usage.
7. Opposition or support of neighborhood residents: Substantial opposition from Meadowlark Neighborhood Association and its residents and from a commercial property in the vicinity was documented by over a 51 percent protest during the previous zoning and C.U.P. amendment case. The Meadowlark Neighborhood was not opposed to all commercial activities, but to those they perceived as more intense including car washes. In response to their efforts, the Wichita City Council prohibited car washes.

Should the MAPC choose to recommend approval of the requested amendment, the following conditions would be recommended to mitigate some of the impacts:

1. The car wash shall be developed and maintained in compliance with all the requirements of Section III-D.6.f of the Unified Zoning Code, including a 35-foot building setback line on Pawnee.
2. Cross-lot circulation shall be provided to Parcel 5.
3. The entrance/exits of the car wash bays or oil changing bays shall be oriented in an east/west direction.
4. The materials and design of the facilities shall be residential in character in consideration of the residential zoning and development adjacent to it.
5. General Provision #4 shall be amended to allow one freestanding sign not exceeding 100 square feet in size on Parcel 6.
6. Lighting standards shall be limited to no greater than 14 feet in height within 200 feet of residentially zoned property. All lights on the site shall be shielded downward and away from any residential property to prevent light trespass and glare.
7. Vacuums shall be limited to operation from 7 a.m. to 10 p.m.
8. A revised circulation plan shall be submitted and approved by the Traffic Engineer, providing drive aisles, queuing spaces, and queuing radii that meet city standards.
9. A revised site plan shall be submitted and approved by the Director of Planning.
10. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
11. After a review of the development and upon appropriate findings, any violation of the conditions of approval will allow the Conditional Use to be declared null and void.
12. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
13. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
14. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
15. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

BARFIELD What is the distance to the storage facility?

GOLTRY It is the adjacent property.

BARFIELD Was the City Council action based solely on DP-93?

GOLTRY The condition was added by the City Council.

WARREN Can we have the aerial map?

DON FOLGER, Agent, we were going to ask for a deferral for two reasons. It has to do with the site logistics that I need to clear up with staff and the applicants.

BARFIELD Have you had any discussions with the Meadowlark Association?

FOLGER We would like to speak with them and help evaluate their issues.

KERIN SMITH We did not set the time of this hearing, and we don't want to defer. We have waited all day for this.

DON FOLGER Most people think a car wash is a bad thing, and that it will decrease the value of properties. It will be a new building, and we want to work with the neighborhood. It is not intended to have something that will stand out. We need to see why the City Council made a recommendation that they did we want a deferral on this case. We feel this is a good use. We are across the street from the neighborhood. We will have the lighting on the property. We want a deferral of this case.

BARFIELD Do you have a revised site plan?

GOLTRY It is the site plan that you have.

BARFIELD Vacuums are in #5 of the staff report.

FOLGER We could work on the location of the vacuums.

DEWY SMITH 2244 S. Pershing, I also thought this area would be developed with a business. I think the car wash will be a problem in our area.

DALE BARNES I own property across the street from the proposed car wash. I don't believe a car wash is compatible with the neighborhood. The noise, the headlights from cars will go straight into their windows. I am opposed to this car wash.

HOWARD MCCOY I have been there for 27 years. The traffic is increasing everyday. My main concerns are the noise, the lights, etc.

KERIN SMITH 2240 S Crestway, President of the Meadowlark Association, We are in opposition to this case. We don't want a car wash.

JEFF SPUN 3601 E. Mount Vernon, This is what happened two years ago. We do not need a car wash in our neighborhood. We protested the car wash the last time. We don't want to go through what we did two years ago.

FRED PANIER 3116 E 55th Street South, Applicant, I don't own the property. My mother owns the property. I had no idea when I asked her to buy this property that we could not put a car wash on this. I don't see what a car wash could do to bring down the quality of life. I want to build a car wash.

FOLGER With respect to the lights in the people's windows located right across the street from the driveway. Mr. Panier will have a building, and take care of the trash. This is commercial, and I really feel given a chance, we can make this work if we can work with the neighborhood.

BARFIELD This is not the same applicant that was denied before?

FOLGER No, Mr. Panier bought this property 2 months ago.

JOHNSON I was on the Planning Commission when it was heard before; the car wash thing did not come up at that time.

GOLTRY It was added at City Council.

MOTION: Deny.

GAROFALO moved, **BISHOP** seconded the motion, and it carried (9-0-1) **ANDERSON** abstained.

Legal Description Zone Change - TF- 3 - to LC All of Lots 4 and 5, together with the north 10.00 feet of Lot 6, all in Block 2, Kellogg Heights Addition to Wichita, Kansas. AND All of Lots 11, 12, and 13, together with the north 20.00 feet of Lot 14, all in Block 1, Kellogg Heights Addition to Wichita, Kansas.

Legal Description Zone Change MF-29 to LC The north 23.00 feet of Lot 21, together with all of Lots 22, 23, 24, 25, 26, 27, and 28, all in Block 1, Kellogg Heights Addition to Wichita, Kansas. Generally located South of Kellogg and on either side of Oliver.

And

11b. Case No ZON2002-00026 (Associated with CUP2002-00020 DP261) – South Oliver, LLC; Donald Walenta (Owner); Baughman Company, P.A., c/o Terry Smythe (Agent) request zone change from “TF-3” Two-Family Residential; “MF-29” Multi-Family Residential; “LC” Limited Commercial to “LC” Limited Commercial on property described as:

LEGAL DESCRIPTION OLIVER RETAIL CENTER C.U.P. All of Lots 1 and 2, Perdel Addition, Wichita, Kansas, TOGETHER with that part of Lots 1, 2, 3, 4, 5, and 6 lying southwesterly of the following described line: Beginning at the SE corner of said Lot 1; thence northwesterly, 189.52 feet, more or less, to a point on the north line of said Lot 6, said point being 7.56 feet east of the NW corner of said Lot 6, and there ending, together with all Lots 7, 8, 9, 10, 11, 12, 13, and north 20.00 feet of Lot 14, together with the north 23.00 feet of Lot 21, and all of Lots 22, 23, 24, 25, 26, 27, and 28, all in Block 1, Kellogg Heights Additions to Wichita, Kansas, TOGETHER with all of Lot 4, Lot 5, except the east 20.00 feet of the south 50.00 feet thereof, and the north 10.00 feet of Lot 6, except the east 20.00 feet thereof, all in Block 2, in said Kellogg Heights Addition, TOGETHER with that part of Highland Lane as dedicated in said Kellogg Heights Addition lying west of the west right-of-way line of Oliver Ave. as dedicated in said Kellogg Heights Addition and lying east of the east right-of-way line of Dellrose Ave. as dedicated in said Kellogg Heights Addition, TOGETHER with that part of Dellrose Ave. as dedicated in said Kellogg Heights Addition lying north of the following described line: Commencing at the NE corner of Lot 5, Block 2, in said Kellogg Heights Addition; thence southerly along the east line of said Lot 5, 10.00 feet for a point of beginning; thence easterly parallel with the extended north line of said Lot 5, 60.00 feet, to a point on the east right-of-way line of said Dellrose Ave., and there ending, TOGETHER with all of Lot 1, Jim Burns Addition to Wichita, Kansas, TOGETHER with all of Lot 1, Walenta Addition, Wichita, Sedgwick County, Kansas, TOGETHER with that part of Reserve "A", Eilerts Addition to Wichita, Sedgwick County, Kansas, lying southeasterly of the following described line: Commencing at the SW corner of said Reserve "A"; thence easterly along the south line of said Reserve "A", 10.00 feet to the NW corner of Lot 1 in said Walenta Addition, and for a point of beginning; thence northerly parallel with the west line of said Reserve "A", 15.00 feet; thence northeasterly, 166.33 feet, more or less, to a point on the east line of said Reserve "A", said point also being the NW corner of Lot 1 in said Jim Burns Addition, and there ending. Generally located South of Kellogg on either side of Oliver.

BACKGROUND: The applicant is requesting the creation of a Community Unit Plan for the two corners of Oliver on the south side of Kellogg Drive. The 5.14-acre C.U.P. would have two parcels. Parcel 1 would be located on the southwest corner of Kellogg Drive and Oliver would be 3.73 acres in size. It would include all the lots along Oliver between Kellogg and Orme except the southernmost residence, and extend westward from Oliver to Pershing. Parcel 2 would be located on the southeast corner and would be 1.39 acres in size. It would include the block bounded by Kellogg, Oliver, Eilerts Street and Glendale.

The C.U.P. excludes the tract closest to each corner of the intersection of Kellogg and Oliver. These excluded tracts are owned by the City of Wichita and are to be used as landscaping at the border of the off-ramps from the Kellogg/Oliver underpass, and will be subject to Design Council review prior to approval of the landscaping plan. The tract on the southeast also contains the irrigation equipment for landscaping in the right-of-way along the south side of Kellogg from Hillside to Oliver.

Currently Parcel 1 consists of commercial uses zoned “LC” Limited Commercial, some vacant lots, and small residences on property zoned “TF-3” Two-Family Residential. More specifically, the property east of Dellrose is developed with the existing Midas Muffler Center, with Midas as the main tenant and six small businesses in the center. Another strip center was located between Dellrose and Oliver, but it was destroyed by a tornado in 1999 and the site has been cleared. The land swapped with the City of Wichita for landscaping includes part of this former strip center. Highland Lane, a small public way about 120 feet south of Kellogg, is proposed to be vacated. Three vacant residential lots are located south of Highland, and the remainder of Parcel 1 is occupied with single-family houses proposed for demolition for redevelopment.

Six four-plexes are located on Parcel 2. The parcel is zoned “MF-29” Multi-family.

Proposed uses for the Oliver Retail Center are all uses allowed in the “LC” Limited Commercial zoning district except adult entertainment establishments, group homes, group residential, halfway house, correctional placement residences, private clubs, taverns, and drinking establishments. Restaurants that serve liquor would be allowed as long as food was the primary service of the establishment. The C.U.P. does not request exclusion of vehicle sales and gambling facilities. However these uses were excluded by the Real Estate Purchase Contract between the City of Wichita and Donald Walenta and should be excluded by the C.U.P.

Some of the potential commercial uses, as proposed, include convenience stores, service stations, general retail and office, secondhand stores, pawnshops, restaurants (including drive-in and drive-through), animal care (limited), banks, funeral home, hotel, personal care service, personal improvement service, indoor recreation and entertainment (see Article III, Section III-B.14.b of the Unified Zoning Code for complete listing of permitted by-right uses).

Building setbacks for Parcel 1 along the common property lines with residential zoning (TF-3) and existing residences are shown as ten feet in width. This is significantly less than the 35-foot standard C.U.P. requirement, as well as the 25-foot compatibility setback that is required by the Unified Zoning Code when commercial use borders residential use. A six-foot masonry wall is proposed along these common property lines. Otherwise, the C.U.P. does not include any additional measures to reduce the impact of commercial use on the adjacent residences. Examples of measures employed in other C.U.P.s include restrictions on drive-in and

drive-through restaurants, overhead doors, and gas islands within 200 feet of residential zoning, limiting lighting standards in height, or additional landscape buffering requirements.

Parcel 2 proposes a 15-foot setback on Glendale and Eilerts. Again, this is below the 35-foot standard C.U.P. setback and the 25-foot street side setback of the UZC. The properties across Eilerts and Glendale are zoned "LC" and "GO", although a "LC/GO" property consist of two four-plexes in exceptionally good condition that would be impacted by the 15-foot setback, particularly if no landscaped street yard and parking lot screening or screening of mechanical, work and storage areas is provided (these measures would not be required by the UZC because of the commercial zoning across both streets).

Height for both parcels is requested as 45 feet. This is ten feet higher than for "LC" in the Unified Zoning Code.

Circulation is a major concern for the parcels. (see Public Services discussion below).

The character of the surrounding area to the south and west of Parcel 1 is modest but well maintained single-family residences. Jefferson Elementary is located on the southwest corner of Oliver and Orme. The area south of Parcel 2 is a small retail strip center, Cedar Village. The land east of Glendale transitions from a vehicle sales operation along Kellogg, to two four-plexes, to single-family residences in good condition.

CASE HISTORY: The property has had a complicated history. It is located within five different plats: Kellogg Heights Addition (recorded 05/7/30), Eilerts Addition (recorded 02/27/42), Jim Burns Addition (recorded 02/01/71), Perdel Addition (recorded 08/27/71), and Walenta Addition (recorded 07/30/71).

The applicant has sought rezoning of the portions of Parcel 1 twice previously and has sought Board of Zoning Appeals approvals at least twice also. Z2697 requesting "LC" was denied by MAPC (06/27/85), was reheard at MAPC and ultimately approved at 11/12/85 by Wichita City Council, but the zoning was never perfected and the case was closed for failure to plat. Z-2698 was denied by MAPC (06/27/85); the applicant then withdrew the case. Meanwhile the applicant was seeking BZA approval (47-85) to essentially accomplish the same thing on property already zoned "LC" to allow storage of rental cars. At the time, a rental car business could be operated in "LC" by special use approval of BZA. Finally, a property within the proposed C.U.P. had been used illegally as a parking lot. The owner sought BZA approval to make the use legal but the BZA denied the case. The BZA denial was overturned by the District Court.

ADJACENT ZONING AND LAND USE:

NORTH:	"TF-3"; "GO"; "LC"	Kellogg freeway, residential (College Hill area)
SOUTH:	"TF-3"; "MF-29"; "B";	Single-family residential, elementary school (west of Oliver), retail (east of Oliver)
EAST:	"GO"; "LC"	Four-plexes, vehicle sales, single-family
WEST:	"TF-3"; "GO"	Single-family residential

PUBLIC SERVICES:

Access is from Kellogg and Oliver. Oliver is a four-lane arterial with two left-turn lanes into Kellogg. Annual average daily traffic (two-way volumes) in 2002 was 19,610 on Oliver and 48,581 on Kellogg. No counts are available for the off-ramp. Traffic is projected to be 25,245 (two-way volumes) on Oliver in 2030 and 90,000 (two-way volumes) on Kellogg in 2030.

The C.U.P. proposes one access point along the Kellogg off-ramp. This off-ramp is maintained by KDOT and our understanding is that KDOT will not grant this access break.

Another proposed access break is along the frontage road east of Oliver. The actual location of the opening is unspecified, but could be as close as 120 feet from Oliver and would be no more than 100 feet west of Glendale.

An access break is shown for each side of Oliver 120 feet south of the Kellogg right-of-way (where Highland Lane was located). According to the Access Management Policy, these two access points would be right-in/right-out only. A full-movement access point is located on Parcel 1 directly across from Eilerts Street, 270 feet south of Kellogg right-of-way. This is below the Access Management separation distance, but its location would be based on the presence of Eilerts Street as an existing condition.

Normal public services are available.

CONFORMANCE TO PLANS/POLICIES:

The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "Commercial" development. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed C.U.P. is in conformance with the general recommendation of the Comprehensive Plan. The proposed site design features (setbacks, circulation, lighting, and limiting activity from adversely impacting surrounding residential areas) needs some modifications to conform to the locational guidelines and **Strategy III.B.2**.

Commercial Locational Guideline #5 "allows local and collector residential streets to be used as access to adjacent commercial and mixed-use developments if such use will not negatively impact residentially developed areas". This guideline should be used to

evaluate the traffic that will be generated by the development on the residences on Pershing and Glendale (see **Recommendations** section).

The residential neighborhood near the proposed development is identified as "revitalization". These are neighborhoods experiencing some market decline and needing to be stabilized. **Residential Objective II.B** of the 1999 Update seeks to "minimize the detrimental impacts of higher intensity land uses and transportation facilities located near residential living environments" through **Strategy II.B.4** that recommends plan review "to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas". The proposed development conflicts with **Objective II.B/Strategy II.B.4** by the exceptionally narrow buffering with minimal ten foot setbacks against residences, potentially tall structures of 45 feet, and no restrictions on uses with overhead doors, drive-in and drive-through facilities and gas islands even in close proximity to residences.

RECOMMENDATION:

Three recent public projects are enhancing the image of the neighborhood. The Kellogg underpass/bridge represented a major improvement and incorporated public art features, including decorative period lighting on the bridge over the underpass. The City of Wichita owns both corner parcels with the intended purpose to landscape them to serve as an attractive gateway to the Oliver corridor. The major expansion of Jefferson Elementary should increase desirability of the neighborhood.

The amount of land available at this site is limited. Requested gross floor area is 48,788 square feet on the west parcel and 18,191 on the east parcel. This would classify both corners as convenience centers at arterial intersections, which generally range in size of 2-4 acres (page 32, 1999 Comprehensive Plan).

Traffic is already very heavy along Oliver, as documented in the **"Public Services"** discussion. During peak travel times, northbound vehicles exceed the stacking lane available and occupy part of the painted median and the adjoining lane signed for joint left-turn/through traffic. Recommended traffic improvements include adding a southbound decel lane from Kellogg to a driveway across from Eilerts, and a northbound decel lane from Eilerts to the right-in/right-out drive across from Highland Lane.

Recommended access points are right-in/right-out only at the existing location of Highland Lane, and a full movement on the west side opposite Eilerts Street. The full movement is only 270 feet south of the right-in/right-out, but the deviation from the standard 400-foot spacing would be to accommodate the existing street location and keep the full movements aligned rather than staggered. Also, moving it to a 400-foot separation puts it too close to Orme (less than 100 feet away).

The proposed opening on the Kellogg off-ramp west of Oliver is not permitted by the KDOT. The Kellogg Drive frontage road east of Oliver allows direct access to adjacent parcels, but its proximity to Oliver and the distance separations between Oliver and Glendale are below the lengths to meet the Access Management Policy, therefore this opening would not be consistent with the policy.

The presence of a drive opening on the west end of Midas Center onto Pershing is opposed by residents in the area because it channels commercial traffic through a local residential street and because it leads traffic to the place where school children are arriving and departing from Jefferson Elementary by cars and by walking. The circulation pattern for Parcel 1 should encourage traffic to enter and exit from Oliver rather than taking the back-door exit through the residential street.

As previously discussed, impacts from the commercial uses should be mitigated by stronger buffering, setback, design and use provisions.

Finally, it is recommended that the property be replatted in order to eliminate the multiplicity of plats encompassed by the development. It also provides a simpler way to eliminate various platted utility easements and setbacks in conflict with the development.

Based on this, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to replatting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2002-00020) to "LC" Limited Commercial for subject to replatting of the entire property within one year.
- B. APPROVE the Community Unit Plan (DP-261), subject to the following conditions:
 1. The C.U.P. shall be revised to eliminate the access opening on the Kellogg off-ramp and the access opening on Kellogg Drive.
 2. The C.U.P. shall be revised to specify the northernmost openings on Parcels 1 and 2 (located at the current location of Highland Lane) as right-in/right-out only.
 3. An additional ten feet of right-of-way should be shown along the northeast segment of Parcel 1.
 4. General Provision #5 shall be revised to include: "A guarantee at time of platting shall be provided for a continuous decel lane on the west side of Oliver from Kellogg off-ramp south to the full movement entrance and a decel lane on east side of Oliver from Eilerts street to the right-in/right-out access point."
 5. Add a general provision to require a circulation plan designed to channel traffic on Parcel 1 to Oliver and away from Pershing and requiring that the primary internal circulation drive not have parking spaces taking direct access from the drive.
 6. The C.U.P. shall be revised for Parcel 1 to provide 15-foot setbacks along adjoining residential property

for primary structures with no loading docks, trash receptacles or outdoor work and storage areas being allowed within this 15-setback. If a drive aisle is placed within the setback, a planting strip with a minimum width of 8 feet shall be provided between the masonry wall and the drive aisle for planting of buffer trees. This setback would replace the compatibility setback of 25-feet of UZC Sec. IV -C.4.

7. The C.U.P. shall be revised for Parcel 2 to provide a 20-foot building setback along Eilerts Street and Glendale.
8. Parcel Description 1(F) and 2(F) shall be revised to add: "however, heights of structures shall be subject to UZC Sec. IV -C.5.b.
9. General Provision #14 shall be revised to state that trash dumpsters may not be placed any closer than 20 feet from the property line as required per UZC Sec. IV -C.7.b.
10. General Provision #17 shall be revised to add the following: (add and be permitted those uses allowed by - right in the "LC" Limited Commercial zone. No uses with overhead doors, drive-in or drive-through facilities or gas islands shall be located within 200 feet of residential zoning on Parcel 1. No vehicle sales or gambling facilities shall be permitted.
11. General Provision #6 shall be revised: Signs located within 200 feet of residentially zoned property shall not exceed 20 feet in height.
12. General Provision #9A shall be revised to add that light poles shall be limited in height to 24 four feet, except within 200 feet of residentially zoned property where light poles shall not exceed 14 feet in height.
13. General Provision #11 shall be modified to indicate that landscaping on the adjoining property owned by the City of Wichita shall be installed and maintained in accordance to the agreement with the City of Wichita (and as reviewed by the Design Council), and may be credited toward meeting landscaped street yard requirements. This credit shall not be used to reduce any screening or parking lot landscaping requirements of the Landscape Ordinance. Street frontage along Glendale and Eilerts Street shall provide a landscaped street yard and parking lot screening if parking lots are located between the buildings and street.
14. General Provision #15 shall add that metal shall not be allowed as the predominate material of any façade.
15. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
16. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
17. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
18. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-257) includes special conditions for development on this property.
19. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the south and west of Parcel 1 is zoned "TF-3" Two-family Residential and developed with single-family residences. Jefferson Elementary is located one block to the south on property zoned "TF-3". The property east of Parcel 2 is zoned "LC" Limited Commercial and occupied by a vehicle sales operation. Two four-plexes are located to the east of Glendale on a tract that is a combination of "LC" and "GO" General Office. South of Parcel 2, the property is zoned "LC" and the location of a strip center called Cedar Village, with the back half of the lot on Glendale being zoned "B" Multi-family but used as parking for the Cedar Village. Kellogg is a major barrier on the north.
2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable for continued use as zoned, primarily "LC". The houses along Oliver zoned "MF-29" could continue to be used as residences, however, the desirability of the property for this purpose is reduced by the presence of commercial use directly across Oliver and large volume of traffic that makes it difficult for the residents to back out of the driveways on Oliver. The houses have already been removed from three of the four lots zoned "TF-3" that would be "LC". One is a vacant lot and the other two provide parking for Midas Center. It is unlikely that the lots would be reestablished with residential use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Continued encroachment of commercial use into the neighborhood would encourage deterioration of existing properties. This can be managed by the use of effective buffering/setback/design techniques to mitigate the impacts, as contained in the "Recommendations" section.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "Commercial" development. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed C.U.P. is in conformance with the general recommendation of the Comprehensive Plan. The recommended conditions are intended to achieve site design features (setbacks, circulation, lighting, and limiting activity from adversely impacting surrounding residential areas) to conform to the locational guidelines and **Strategy III.B.2**. These conditions will also address **Residential Objective II.B** of the *1999 Update* that seeks to "minimize the detrimental impacts of higher intensity land uses and transportation facilities located near residential living environments" through **Strategy II.B.4** that recommends plan review "to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas".

Commercial Locational Guideline #5 "allows local and collector residential streets to be used as access to adjacent commercial and mixed-use developments if such use will not negatively impact residentially developed areas". The requirement of a circulation plan to direct traffic toward Oliver and away from Pershing is intended to bring the C.U.P. into conformance with this guideline.

5. Impact of the proposed development on community facilities: The traffic increases from the development should be mitigated by the addition of decel lanes on Oliver and the restriction of access breaks to reduce traffic conflicts.

DONNA GOLTRY, Planning staff, presented the staff report. There are differences between the applicant and the staff recommendation.

TERRY SMYTHE, Baughman Company, 1, 5, 6, & 10 are the items we agree to.

WARREN A decal lane and access?

SMYTHE We think it is appropriate to have a drive off of the frontage road. We would like to have access from both the on- and off-ramps. Item 5 says something about a circulation plan. This is a small site that we have. We will come up with the circulation plan at the time of site development. Item #5, we would like to discourage traffic going on Pershing. Item 6, regarding the 15 foot setback; we think there is enough room for some landscaping. We want that setback at 10 feet, and not 15. On Item #10, we want to make sure if it is a convenience store, that we be able to sell lottery tickets if we get that kind of tenant. We have been working with the City.

GAROFALO You want access on Parcel 1?

SMYTHE We want an opening at Dellrose.

HENTZEN The State has to approve that.

WARREN You are not asking Dellrose to be opened to the south?

MOTION: Approve, subject to the following revisions: #1, access be allowed, subject to the approval of the State; #5 be revised that the circulation plan be approved by the City at platting; efforts are to be made in the way of signage to discourage travel on Pershing street; #6, changed to a 10 foot setback; #10 provide with countenance of overheard doors and that the wording on gambling facility be as Donna Goltry has prescribed; gas pumps drive-through remain within the 200 feet.

WARREN moved, **COULTER** seconded the motion, and it carried (8-0).

COULTER We also want more trees.

LINDEBAK I want to comment on that reduction of the 10 ft setback. Maybe we need trees in there.

12. **Workshop on "Transportation Enhancements"; preliminary review of pathway and scenic/environmental projects to be submitted to KDOT for federal funding, presented by Jamsheed Mehta.**

Deferred until October 10, 2002 because of a lack of quorum.

13. **Review of draft Unified Panning Work Program (UPWP) for 2003, presented by Jamsheed Mehta.**

Deferred until October 10, 2002 because of lack of a quorum.

14. Appointments to Advance Plans Committee, Subdivision Committee, and a representative for Central Plains Quad-County Planning Forum.

Defer until October 10, 2002 because I haven't been able to talk to the three people that are not here. There is a requirement that one person exchange with the other on the two committees and Don and Bishop agreed to do that.

The Metropolitan Area Planning Department informally adjourned at 6:04 p.m.

State of Kansas)
Sedgwick County) ss

I, Mike Lindebak, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2002.

Mike Lindebak, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)